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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/183,732	10/30/1998	CHRISTOPHER D. WILLIAMS	042390.P6485	3453

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EXAMINER

KOENIG, ANDREW Y

ART UNIT PAPER NUMBER

2611

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/183,732	Applicant(s) WILLIAMS ET AL.	
	Examiner Andrew Y Koenig	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18,33-36 and 46-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18,33-36 and 46-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 19 October 2004 have been fully considered but they are not persuasive.

The applicant argues that Herz does not suggest how to create a list of favorite channels but instead discusses "virtual channels" which each amount to a single recommended program. The examiner disagrees; Herz teaches showing at least one program for a given virtual channel (col. 22—23, ll. 56-18), thereby amounting to a list of channels (col. 25, ll. 16-30). Further, Herz teaches prioritizing the programs being shown on the virtual channels (col. 25, ll. 16-30). Consequently, Herz does in fact teach creating a list of favorite programs (which are directly related to channels) (see also: col. 4, ll. 18-31).

Further, the applicant argues that Herz does not select an entertainment programming preference list. The examiner disagrees; Herz teaches modifying the lists using moods (col. 45, ll. 30-33, col. 17, ll. 45-65).

The applicant emphasizes that claim 1 describes preferences list as "identifying a plurality of different channels of entertainment programming that can be added to and deleted from each list by the identified user." The applicant argues that the virtual channel of Herz cannot be added or deleted by the user in that the purpose of the virtual channel is to automatically pick the right show. The examiner disagrees with the applicant; Knee is used to teach the limitation of adding and deleting from a given list. However it should be noted that the claims do not specify how the programming is

added and deleted from a list by the identified user. Given the broadest reasonable interpretation, even Herz teaches indirectly adding and deleting programming based on the user's actions and mood.

Further the applicant argues that Herz does not teach searching a set of user-definable preference lists, displaying the lists and receiving a selection from the user. The examiner disagrees; Herz teaches creating a matrix of programming to provide the most desirable programs for the user, which is used to develop the program list for the customer (col. 17, ll. 45-65, col. 45-46, ll. 56-18).

The applicant further argues that the mood is not a user-definable list. The examiner disagrees; the selection of a mood will change the virtual channels presented to the user (col. 4, ll. 18-31, col. 22—23, ll. 56-18), wherein the mood is directly determined by the user (col. 17-18, ll. 66-6). (The examiner notes that the teaching of Herz of highlighting recommendations in the EPG does not render the adding/removing programs of Knee non-combinable).

The applicant additionally argues that the moods of Herz are based on times, whereas the examiner recognizes this distinction, there user has direct control over the moods and the times, by using the ballots (col. 17-18, ll. 66-6); which still reads receiving a selection of a displayed list from the user (from prior input).

The applicant argues that the two references (Knee and Herz) show completely opposite approaches to finding and choosing a program. The applicant further asserts enabling the user to dedicate channels to a list as taught by Knee would defeat the entire purpose of Herz which is to make choices automatically. The examiner

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disagrees; both references are related to targeting programming for the user, further the system of Herz teaches supporting plural users and recognizes the benefits of having separate lists/profiles. Further, there is no explicit teaches in either reference from making the proposed combination.

The discussions of the arguments towards Knee, Herz, and Ellis have been addressed above.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-18, 34, 36, and 46-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,589,892 to Knee et al. (Knee) in view of U.S. Patent 5,758,257 to Herz et al. (Herz).

Regarding claims 1, 6, 11, and 16, Knee teaches a plurality of favorite channel lists for at least three individual users (col. 30, ll. 50-67). Knee teaches selecting buttons on the remote control (fig. 4, labels 48A-48C, col. 30, ll. 52-55), which reads on receiving user identification at the entertainment system. Knee teaches adding and deleting channels from the favorite channel lists, such as shown in figure 8 (col. 28, ll. 34-52), wherein the user can add and delete programs from the list (col. 28, ll. 58-64). Upon selection of the icon on the remote as discussed above, the system provides the

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associated favorites channel list along with category preference lists (col. 32-33, ll. 65-7). Knee teaches displaying the lists to the user on the remote control (fig. 4, labels 48A-48C, col. 30, ll. 52-55), receiving selection of the list via the remote control, and displaying the selected list (fig. 8, 19). Upon selection of the button, Knee selects a single list for the user, but is silent on identifying plural lists corresponding to the user. Herz teaches using moods to provide additional lists to the user (col. 45, ll. 30-33), wherein the user can select from a plurality of user-defined lists, based on their mood (col. 17, ll. 45-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knee by providing a plurality of lists as taught by Herz in order to enable the user to select their mood thereby providing more desirable programming to the user.

Regarding claims 2, 7, 12, 17, and 52, Knee teaches a set top (abstract), which provides the selected audio and video from a source.

Regarding claims 3, 8, 13, 18, 54, and 55, Knee teaches selecting a channel (col. 14, ll. 30-43), further Knee teaches accessing the program guide information independent from the preference list (as shown in fig. 5, col. 6, ll. 40-59, col. 10, ll. 26-33, col. 14, ll. 20-29), and tuning to the appropriate channel, and accessing a programming guide database to determine a component associated with the programming, such as channel information.

Regarding claims 4, 9, 14, and 53, Knee teaches incrementing channels (14-30-44), the limitation of selecting and accessing has been already discussed.

Regarding claims 5, 10, and 15, Knee teaches incrementing through the channels, which as shown in fig. 5, which permits the user to continuously increment through the channels (col. 14-15, ll. 63-12).

Regarding claims 34 and 36, Knee teaches continually updating the lists to reflect programming at a given time (col. 10, ll. 29-33), which reads on automatically selecting additional ones of the channels at predetermined intervals.

Regarding claims 46 and 49, as discussed in claim 1, the combination of references teaches user generated lists.

Regarding claim 47, Knee teaches storing the lists (col. 28, ll. 53-54).

Regarding claims 48 and 50, as discussed in claim 1, the combination of references teaches user generated lists.

Regarding claim 51, Knee teaches a plurality of favorite channel lists for at least three individual users (col. 30, ll. 50-67). Knee teaches selecting buttons on the remote control (fig. 4, labels 48A-48C, col. 30, ll. 52-55), which reads on receiving user identification at the entertainment system. Knee teaches adding and deleting channels from the favorite channel lists, such as shown in figure 8 (col. 28, ll. 34-52), wherein the user can add and delete programs from the list (col. 28, ll. 58-64). Upon selection of the icon on the remote as discussed above, the system provides the associated favorites channel list along with category preference lists (col. 32-33, ll. 65-7). Knee teaches displaying the lists to the user on the remote control (fig. 4, labels 48A-48C, col. 30, ll. 52-55), receiving selection of the list via the remote control, and displaying the selected list (fig. 8, 19). Upon selection of the button, Knee selects a single list for the user, but

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is silent on identifying plural lists corresponding to the user. Herz teaches using moods to provide additional lists to the user (col. 45, ll. 30-33), wherein the user can select from a plurality of user-defined lists, based on their mood (col. 17, ll. 45-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knee by providing a plurality of lists as taught by Herz in order to enable the user to select their mood thereby providing more desirable programming to the user. Knee teaches a microcontroller 16, which accesses and provides EPG data (col. 10, ll. 22-33), which equates to an EPG controller.

4. Claims 33 and 35 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,589,892 to Knee et al. (Knee) and U.S. Patent 5,758,257 to Herz et al. (Herz) in view of U.S. Patent 5,986,650 to Ellis et al. (Ellis)

Regarding claims 33 and 35, Knee is silent on providing an indication at the completion of a cycle. Ellis teaches providing a passive indication when the cycle is completed by stop scanning and tuning to the start channel (col. 11, ll. 4-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knee by providing a passive indication to the user when the user completes a cycle as taught by Ellis in order to provide feedback to the user and thereby denote when the cycle has been complete.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,798,785 to Hendricks et al. teaches the selection of moods (see fig. 11b, 12[c-e], 13a, col. 35, ll. 37-47).

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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CHRIS GRANT
PRIMARY EXAMINER